

## STATE OF LOUISIANA LDEQ RECEIPT

## DEPARTMENT OF ENVIRONMENTAL QUALITY

2007 DEC 21 AM 9 22

IN THE MATTER OF:

\* Settlement Tracking No.

\* SA-AE-07-0022

\*

MOTIVA ENTERPRISES LLC

\* Enforcement Tracking No.

\* AE-CN-05-0027

\* AE-CN-05-0027A

\* AE-CN-06-0012

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PROCEEDINGS UNDER THE LOUISIANA  
ENVIRONMENTAL QUALITY ACT

\* Docket No. 2005-4032-EQ

LA. R.S. 30:2001, ET SEQ.

\* 2007-1705-EQ

## SETTLEMENT

The following Settlement is hereby agreed to between Motiva Enterprises LLC ("Respondent") and the Department of Environmental Quality ("DEQ" or "the Department"), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. ("the Act").

## I

Respondent is a corporation who operates a refinery facility (AI # 2719) at Louisiana Highway 44, in Convent, St. James Parish, Louisiana and a liquefied petroleum gas storage facility (AI # 25891), located on U.S. Highway 61 in Sorrento, Ascension Parish, Louisiana ("the Facility(s)").

## II

On February 1, 2004, an investigation of the unauthorized air discharge which occurred on December 22, 2003, at the refinery (AI # 2719), was performed to determine the degree of compliance with the Act and the Air Quality Regulations.

The following violation was noted during the course of the investigation:

The Department received an unauthorized discharge notification report from the Respondent dated December 29, 2003, regarding a release that occurred at the Respondent's facility on December 22, 2003. During this incident, approximately 16.9 pounds (lbs) of nitrogen oxides (NO<sub>x</sub>), 171 lbs of hydrogen sulfide (H<sub>2</sub>S), and 63,608 lbs of sulfur dioxide (SO<sub>2</sub>) were released to the atmosphere. According to the Respondent, the incident resulted from the loss of instrument air to a portion of the sulfur recovery plant causing the Sulfur Recovery Units (SRUs) to shut down. According to the Respondent's report, this incident was preventable. This is a violation of LAC 33:III.905 which states "When facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities, even though the ambient air quality standards in an affected area are not exceeded." Control equipment as defined by LAC 33:III.111 is "any device or contrivance, operating procedure or abatement scheme used to prevent or reduce air pollution." This is also a violation of Sections 2057(A)(1) and 2057(A)(2) of the Act.

On May 16, 2005, the Department issued a Consolidated Compliance Order and Notice of Potential Penalty (CCONOPP), Enforcement No. AE-CN-05-0027, to Respondent, which was based upon the following findings of fact:

The Respondent owns and/or operates the Convent Refinery (AI No. 2719) located on Louisiana Highway 44 in Convent, St. James Parish, Louisiana. The facility operates under Title V Permit No. 2560-00001-V3 issued on May 17, 2002. The Respondent also owns and/or operates the Sorrento Offsite Storage Caverns Facility (AI No. 25891), a liquefied petroleum gas storage facility, located on U.S. Highway 61, approximately 2 miles southeast of Sorrento in Ascension Parish, Louisiana. The facility operates under Air Permit No. 0180-00072-02 issued December 11, 2001.

On December 20, 2004, a file review of the Respondent's Convent Refinery (AI No. 2719) and Sorrento Offsite Storage Caverns Facility (AI No. 25891) was conducted to determine the degree of compliance with the Act and Air Quality Regulations.

The following violations were noted during the course of the review:

- A. The Department received an unauthorized discharge notification report from the Respondent's Convent Refinery (AI No. 2719) dated May 15, 2003, regarding a release that began on May 11, 2003, at approximately 2:03 p.m. and ended on May 12, 2003, at 2:31 a.m. According to the Respondent, this incident was preventable and resulted in approximately 23.5 lbs of NO<sub>x</sub> being emitted to the atmosphere. According to the Respondent's report, personnel routinely drain liquids accumulated in various vessels and equipment in order to continue safe operation of the equipment. The drained liquids are directed to the refinery flare system during the short time required to drain equipment. Emissions resulting from this routine activity are addressed in the facility's permit. In this instance, however, the drain from the Low Pressure Fuel Gas Drum was inadvertently left open, resulting in flaring for approximately 12.5 hours. This is a violation of LAC 33:III.905 which states, "When facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities, even though the ambient air quality standards in affected areas are not exceeded." Control equipment as defined by LAC 33:III.111 is "any device or contrivance, operating procedure or abatement scheme used to prevent or reduce air pollution." This is a violation of Title V Permit No. 2560-00001-V3, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act.
- B. The Department received an unauthorized discharge notification report from the Respondent dated December 17, 2003, regarding a release that began at the Respondent's Sorrento Offsite Storage Caverns Facility (AI No. 25891) on December 11, 2003, at approximately 7:25 p.m. and ended the same day at 7:35 p.m. According to the Respondent's report, the propane line in the Sorrento unit over pressured resulting in four (4) pressure relief valves relieving to the Flare (Emission Point No. 100G-102) after a valve was opened by a third party operator allowing a higher pressure propane stream to backflow into the Motiva, Sorrento propane line. The Respondent's Sorrento unit Flare (Emission Point No. 100G-102) permitted emission rate is 0.31 lbs/hr of

NOx, 0.66 lbs/hr of VOC, and 1.75 lbs/hr of CO. According to the Respondent, this incident was preventable and resulted in approximately 211 lbs of NOx, 488.2 lbs of VOC, 1,151.4 lbs of CO, and 39.8 lbs of PM10 being emitted to the atmosphere from the Respondent's Flare (Emission Point No. 100G-102). This is a violation of Title V Permit No. 2560-00001-V3, LAC 33:III.501.C.4, LAC 33:III.905, and Sections 2057(A)(1) and 2057(A)(2) of the Act.

- C. The Department received an unauthorized discharge notification report from the Respondent's Convent Refinery (AI No. 2719) dated December 23, 2003, regarding a release that began on December 18, 2003, at approximately 1:52 p.m. and ended on December 19, 2003, at approximately 3:27 p.m. According to the Respondent, this incident was preventable and resulted in approximately 278.5 lbs of NOx, 573.4 lbs of VOC, 1,515.5 lbs of CO, 1,645 lbs of SO2, and 52.4 lbs of PM10 being emitted to the atmosphere from Flare No. 1 (19F-3), Flare No. 2 (19AH-901), Flare No. 3 (19G-301), and Flare No. 4 (19G-302). According to the Respondent's report, an unplanned shutdown of the FCCU Wet Gas Compressor was caused by a loss of control oil pressure to the fuel valve on the Gas Turbine (Emission Point No. 2KT-331). Operations personnel were in the process of isolating one set of control oil filters for maintenance and inadvertently isolated the filter that was on line, resulting in an unplanned shutdown of the compressor, and the associated flaring. This is a violation of LAC 33:III.905 which states, "When facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities, even though the ambient air quality standards in affected areas are not exceeded." Control equipment as defined by LAC 33:III.111 is "any device or contrivance, operating procedure or abatement scheme used to prevent or reduce air pollution." This is a violation of Title V Permit No. 2560-00001-V3, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act.
- D. The Department received an unauthorized discharge notification report from the Respondent's Convent Refinery (AI No. 2719) dated March 19, 2004, regarding a release that began on March 15, 2004, at approximately 11:59 a.m. and ended on March 16, 2004, at approximately 10:11 a.m. According to the Respondent's report, the recycle compressor in the Hydro Treating Unit No. 3 (HTU-3) tripped causing the entire HTU-3 unit to shut down. The trip occurred while technicians were upgrading the unit control software. According to the Respondent, when the power to the

control system had to be powered down and restarted for the update to be complete, there was a gap of approximately three (3) minutes during which the output of the seal oil tank level stopped giving a valid reading. Once power was restored and a level indication returned, the seal oil pot level was already below the trip point of the compressor, resulting in the compressor tripping out. The unit could not continue to operate without the compressor running and subsequently shut down. The depressurization of the unit's vessels resulted in the generation of large volumes of hydrogen gas. Due to the low heating value of the hydrogen gas, it could not be routed through the flare gas recovery system and injected into the refinery fuel gas. Attempts to restart the compressor in order to stop flaring Hydrogen were unsuccessful due to high vibration readings on the compressor. Operations and technical personnel have considered an alternate design of the particular control system in order to prevent a recurrence of this type of incident. According to the Respondent, this incident was preventable and resulted in approximately 217.33 lbs of NOx being emitted to the atmosphere from the following emission points: Flare No. 1 (19F-3), Flare No. 2 (19AH-901), Flare No. 3 (19G-301), and Flare No. 4 (19G-302). This is a violation of LAC 33:III.905 which states, "When facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities, even though the ambient air quality standards in affected areas are not exceeded." Control equipment as defined by LAC 33:III.111 is "any device or contrivance, operating procedure or abatement scheme used to prevent or reduce air pollution." According to the Respondent, the flaring exceeded the NOx lbs/hr emission limit rate for Flare Nos. 1, 2, 3, & 4. This is a violation of Title V Permit No. 2560-00001-V3, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act.

- E. The Department received an unauthorized discharge notification report from the Respondent's Convent Refinery (AI No. 2719) dated June 29, 2004, regarding a release that began on June 26, 2004, at approximately 5:00 p.m. and ended the same day at approximately 7:45 p.m. According to the Respondent, this incident was preventable and resulted in approximately 2,894 lbs of natural gas being emitted to the atmosphere. According to the Respondent's report, operations personnel experienced several "pilot out" alarms on Flare No. 1, (Emission Point No. 19F-3) however a visual inspection of the flare indicated the alarms were false (a flame was observed visually). Operations slightly opened the feed gas line to ensure enough flow to keep the flare lit.

According to the Respondent, this increase in flow may have actually caused the flare pilot to go out. The Respondents failure to operate Flare No. 1 (Emission Point No. 19F-3) with a flame present at all times is a violation of 40 CFR 60.18(c)(2) which language has been adopted as a Louisiana regulation in LAC 33:III.3003.A, Title V Permit No. 2560-00001-V3, and Sections 2057(A)(1) and 2057(A)(2) of the Act.

- F. The Department received an unauthorized discharge notification report from the Respondent's Convent Refinery (AI No. 2719) dated September 2, 2004, regarding emissions from a crack in a blower casing that began on January 15, 2004, and ended on August 25, 2004. According to the Respondent, the cause of the crack in the blower casing is unknown, and had the blower been repaired sooner the resulting emissions would have been lower and much of the emissions could have been prevented. The release resulted in approximately 57 lbs of benzene, 5 lbs of cumene, 31 lbs of cyclohexane, 51 lbs of ethylbenzene, 354 lbs of n-hexane, 4.9 lbs of naphthalene, 212 lbs of toluene, 224 lbs of xylene, 53 lbs of 2,2,4-trimethyl pentane, 0.4 lbs of methyl alcohol, 225 lbs of MTBE, and 4,188 lbs of other VOCs being emitted to the atmosphere. According to the Respondent's report, the emissions resulted from a crack in a blower of the Marine Vapor Recovery (MVR) system. The crack was discovered on January 15, 2004, and sealed on August 25, 2004. According to the Respondent's report, a maintenance work ticket was put into the maintenance system however, no repairs were immediately taken. This is a violation of 40 CFR 63.6(e) which language has been adopted as a Louisiana regulation in LAC 33:III.5122.A, and LAC 33:III.905 which states, "When facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities, even though the ambient air quality standards in affected areas are not exceeded." Control equipment as defined by LAC 33:III.111 is "any device or contrivance, operating procedure or abatement scheme used to prevent or reduce air pollution." The release of unpermitted emissions is a violation of Title V Permit No. 2560-00001-V3, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act. The Respondent also failed to include this emission exceedance in the Respondent's First Quarter 2004 Condition R Report. This is a violation of General Condition XI.C.1 and Part 70 General Condition R.3 of Title V Permit No. 2560-00001-V3.

- G. The Department received an unauthorized discharge notification report from the Respondent's Convent Refinery (AI No. 2719) dated October 11, 2004, regarding the shutdown and bypass of the Torvex catalytic converter that began on October 6, 2004, at approximately 9:00 a.m. and ended the same day at 9:07 a.m. (a duration of 7 minutes). According to the Respondent, this incident was preventable and resulted in approximately 129 lbs of methanol and 93 lbs of VOCs over permitted levels being emitted to the atmosphere. According to the Respondent's report, contractor personnel were erecting scaffolding in the Torvex area in preparation for an inspection and turnaround on the unit. Part of the scaffolding material fell against a ball valve, shutting it and subsequently causing an automatic trip of the HGU Torvex catalytic converter. This is a violation of LAC 33:III.905 which states, "When facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities, even though the ambient air quality standards in affected areas are not exceeded." Control equipment as defined by LAC 33:III.111 is "any device or contrivance, operating procedure or abatement scheme used to prevent or reduce air pollution." The release of unpermitted emissions is also a violation of Title V Permit No. 2560-00001-V3, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act.
- H. The Department has received the Respondent's Convent Refinery (AI No. 2719) 2003 Annual Title V Certification for Title V Permit No. 2560-00001-V3 dated March 30, 2004, encompassing the time period from January 1, 2003, through December 31, 2003, and a Semiannual Title V report encompassing the time period from July 1, 2003, through December 31, 2003. According to the NESHAP report dated March 29, 2004, for Benzene Waste Operations (attachment No. 3 of the Annual Title V Certification), the following permit deviations occurred:

Flare Number	Time Period Pilot Flame Absent			Corrective Action
	Date	Start Time	Stop Time	
4	5/17/2003	12:38 a.m.	1:14 a.m.	Flare pilots were relit
4	5/17/2003	12:36 p.m.	5:14 p.m.	Flare pilots were relit
4	5/20/2003	6:19 p.m.	9:13 p.m.	Flare pilots were relit
1	6/16/2003	1:07 p.m.	1:42 p.m.	Flare pilots were relit
1	12/15/2003	12:53 a.m.	4:00 a.m.	Flare pilots were relit

Each failure to maintain a flare pilot light at all times is a violation of 40 CFR 63.11(b)(5) which language has been adopted as a Louisiana regulation in LAC 33:III.5122.A, Title V Permit No. 2560-00001-V3, and Section 2057(A)(2) of the Act.

- I. The Department has received the Respondent's Convent Refinery (AI No. 2719) 2003 Annual Title V Certification for Title V Permit No. 2560-00001-V3 dated March 30, 2004, encompassing the combined time period from January 1, 2003, through December 31, 2003, and a Semiannual Title V report encompassing the time period from July 1, 2003, through December 31, 2003. According to the NESHAP report dated March 29, 2004, for Benzene Waste Operations (attachment No. 3 of the Annual Title V Certification), initial and quarterly inspections were not conducted on contractor vacuum trucks being utilized for controlled tank water draws during the third and fourth quarters of 2002. Vacuum trucks meet the definition of "containers" in 40 CFR 61.341 and must comply with the requirements of 40 CFR 61.345. Each failure to conduct inspections of containers initially and quarterly thereafter is a violation of 40 CFR 61.349(f) which language has been adopted as a Louisiana regulation in LAC 33:III.5116, Title V Permit No. 2560-00001-V3, and Section 2057(A)(2) of the Act.
- J. The Department has received the Respondent's Convent Refinery (AI No. 2719) 2003 Annual Title V Certification for Title V Permit No. 2560-00001-V3 dated March 30, 2004, encompassing the time period from January 1, 2003, through December 31, 2003, and a Semiannual Title V report encompassing the time period from July 1, 2003, through December 31, 2003. According to the NESHAP report dated March 29, 2004, for Benzene Waste Operations (attachment No. 3 of the Annual Title V Certification), fourth quarter visual inspections were not conducted for the HDS-1 (H4 Module) individual drain system. Each failure to conduct quarterly inspections of individual drain systems is a violation of 40 CFR 61.346(a)(2) which language has been adopted as a Louisiana regulation in LAC 33:III.5116, Title V Permit No. 2560-00001-V3, and Section 2057(A)(2) of the Act.
- K. The Department has received the Respondent's Convent Refinery (AI No. 2719) 2003 Annual Title V Certification for Title V Permit No. 2560-00001-V3 dated March 30, 2004, and encompassing the time period from January 1, 2003, through December 31, 2003, and a Semiannual Title V report encompassing the time period from July 1, 2003, through December 31, 2003. According to the Respondent's General Condition R Report dated July 30, 2003



(attachment No. 6 of the Annual Title V Certification), a preventable shutdown and bypass of the Respondent's Torvex catalytic converter occurred on July 23, 2003. The Respondent's Torvex Incinerator Exhaust Stack (Emission Point No. 79J-904) is permitted to emit a maximum of 0.40 lbs/hr of hydrogen sulfide, 7.40 lbs/hr of carbon monoxide, and 4.20 lbs/hr of total VOC. According to the Respondent's report, approximately 23.53 lbs of hydrogen sulfide, 960 lbs of carbon monoxide, and 2,150 lbs of VOC were emitted to the atmosphere over the period of the bypass (26 hours) from the Torvex Incinerator Exhaust Stack (Emission Point No. 79J-904). According to the Respondent's report, personnel were performing trip checks on the HGU Torvex catalytic converter as part of the normal system maintenance. While this was being done, the Torvex tripped. Initial attempts to restart the unit and keep it on line were unsuccessful. Personnel eventually determined that the problems with the process air blower and associated outlet butterfly valve were keeping the Torvex from being restarted. This is a violation of LAC 33:III.905 which states, "When facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities, even though the ambient air quality standards in affected areas are not exceeded." Control equipment as defined by LAC 33:III.111 is "any device or contrivance, operating procedure or abatement scheme used to prevent or reduce air pollution." The release of unpermitted emissions is also a violation of Title V Permit No. 2560-00001-V3, AC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act.

In response to the Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. AE-CN-05-0027, Respondent made a timely request for a hearing.

On December 27, 2005, the Department issued to the Respondent Amended Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. AE-CN-05-0027A, amending the original CCONOPP to read as follows:

Paragraph II.C of the Findings of Fact is amended to read as follows:

- C. The Department received an unauthorized discharge notification report from the Respondent's Convent Refinery (AI No. 2719) dated December 23, 2003, regarding a release that began on

December 18, 2003, at approximately 1:52 p.m. and ended on December 19, 2003, at approximately 3:27 p.m. According to the Respondent, this incident was preventable and resulted in approximately 278.5 lbs of NO<sub>x</sub>, 573.4 lbs of VOC, 1,515.5 lbs of CO, 1,645 lbs of SO<sub>2</sub>, 52.4 lbs of PM<sub>10</sub>, and 4.3 lbs of H<sub>2</sub>S being emitted to the atmosphere from Flare No. 1 (19F-3), Flare No. 2 (19AH-901), Flare No. 3 (19G-301), and Flare No. 4 (19G-302). According to the Respondent's report, an unplanned shutdown of the FCCU Wet Gas Compressor was caused by a loss of control oil pressure to the fuel valve on the Gas Turbine (Emission Point No. 2KT-331). Operations personnel were in the process of isolating one set of control oil filters for maintenance and inadvertently isolated the filter that was on line, resulting in an unplanned shutdown of the compressor, and the associated flaring. This is a violation of LAC 33:III.905 which states, "When facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities, even though the ambient air quality standards in affected areas are not exceeded." Control equipment as defined by LAC 33:III.111 is "any device or contrivance, operating procedure or abatement scheme used to prevent or reduce air pollution. This is a violation of Title V Permit No. 2560-00001-V3, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act. In addition, the permitted emission limits for Flares 1-4 were exceeded as displayed in the following table:

Flare No. 1 (19F-3)			
	Max Hourly Permit limit (lbs/hr)	Total Actual Emissions (lbs)	Duration of Flaring (hrs)
PM <sub>10</sub>	0.17	0.51	0.2
Flare No. 2 (19AH-901)			
SO <sub>2</sub>	<0.01	1,537.79	10.4
H <sub>2</sub> S	<0.01	4.02	10.4
VOC	12.78	260.35	10.4
NO <sub>x</sub>	13.16	536.03	10.4
PM <sub>10</sub>	1.41	48.98	10.4
CO	69.54	1,416.73	10.4
Flare No. 3 (19G-301)			
SO <sub>2</sub>	32.65	38.55	0.25
H <sub>2</sub> S	0.09	0.1	0.25

	Flare No. 4 (19G-302)		
SO <sub>2</sub>	<0.01	52.66	1.61
H <sub>2</sub> S	<0.01	0.14	1.61
VOC	0.01	8.92	1.61
NO <sub>x</sub>	0.01	18.36	1.61
PM <sub>10</sub>	<0.01	1.68	1.61
CO	0.06	48.51	1.61

Each exceedance of a permitted emission limit is a violation of Title V Permit No. 2560-00001-V3 and Sections 2057(A)(1) and 2057(A)(2) of the Act.”

The Department hereby amends Paragraphs II.E and II.G of the Findings of Fact to remove all references to “Title V Permit No. 2560-00001-V3” and replace with “Title V Permit No. 2560-00001-V4”.

The Department hereby amends Paragraph II.F of the Findings of Fact to remove all references to “40 CFR 63.6(e)”.

The Department hereby amends Paragraph II.K of the Findings of Fact to remove all references to “26 hours” and replace with “25.6 hours”.

The Department hereby removes Paragraphs II.B, II.I, and II.J of the Findings of Fact.

The Department incorporates all of the remainder of the original Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-05-0027, and Agency Interest No. 2719 & 25891 as if reiterated herein.

### III

On February 6, 2006, the Department issued to Respondent Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. AE-CN-06-0012, which was based upon the following findings of fact:

The Respondent owns and/or operates the Convent Refinery located on Louisiana Highway 44 in Convent, St. James Parish, Louisiana. During the course of 2004, the facility

operated under three (3) Title V Permits: Title V Permit No. 2560-00001-V3 issued on May 17, 2002, Title V Permit No. 2560-00001-V4 issued on June 7, 2004, and Title V Permit No. 2560-00001-V5 issued on September 24, 2004.

On December 7, 2005, a file review of the Respondent's Convent Refinery was conducted to determine the degree of compliance with the Act and Air Quality Regulations.

The following violations were noted during the course of the review:

- A. On April 1, 2005, the Department received the Respondent's 2004 Annual Title V Certification for the Convent Refinery. According to the Respondent's report, the FCCU Power Recovery Stack (Emission Point Nos. 2C-506/518) exceeded the 30% opacity limit as follows in the table below:

2C-506/518 Power Recovery Stack	
Opacity Exceeded 30%	Description
4/7/2004	cleaning FCCU PRT
5/3/2004	cleaning FCCU PRT
5/4/2004	cleaning FCCU PRT
4/27/2004	water separation problems with HTU-3 and installation of a blind in the PRT bypass stack
10/14/2004	high level in the catalyst fines hopper and/or a plugged withdrawal line

Each instance of discharge into the atmosphere from any new or existing fluid catalytic cracking unit catalyst regenerator gases exhibiting greater than 30% opacity, except for one six-minute average opacity reading in any one-hour period is a violation of LAC 33:III.1311.D, Title V Permit No. 2560-00001-V5, and Sections 2057(A)(1) and 2057(A)(2) of the Act.

- B. On or about October 1, 2004, and April 1, 2005, the Department received the Respondent's 2004 1<sup>st</sup> Half Title V Semiannual Report and 2004 Annual Certification for the Convent Refinery. According to these reports, permit deviations occurred when the flare pilot flames were out on the following occasions:

Flare Number	Time Period Pilot Flame Absent		
	Date	Start Time	Stop Time
3	2/17/2004	6:10 a.m.	8:45 a.m.
1	8/16/2004	9:10 p.m.	9:27 p.m.
3	8/22/2004	7:45 a.m.	9:58 a.m.
1	9/21/2004	1:10 a.m.	2:10 a.m.

Each failure to maintain the presence of a flame at all times is a violation of 40 CFR 60.18(c)(2) which language has been adopted as a Louisiana regulation in LAC 33:III.3003.A, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.

- C. On or about October 1, 2004, and April 1, 2005, the Department received the Respondent's 2004 1<sup>st</sup> Half Title V Semiannual Report and 2004 Annual Title V Certification for the Convent Refinery. According to these reports, on March 8, 2004, from 4:17 p.m. to 8:30 p.m. the internal floating roof on Tank No. 20T-205 was lowered to the point where the roof went off float as a result of drawing down the tank level while the automatic gauging device was not working. This incident resulted in the release of 338 lbs of unpermitted VOC emissions to the atmosphere. Also, on October 1, 2004 from 7:49 a.m. to 11:58 p.m., the floating roof on Tank No. 20D-12 was lowered to the point where the roof was resting on the leg supports while the tank was in service. Each failure to maintain an internal floating roof on float at all times is a violation of LAC 33:III.2103.D, 40 CFR 63.119(c)(3) which language has been adopted as a Louisiana regulation in LAC 33:III.5122, Title V Air Permit No. 2560-00001-V5, and Sections 2057(A)(1) and 2057(A)(2) of the Act.
- D. The Department received the Respondent's unauthorized discharge notification report dated August 23, 2004, regarding a preventable bypass of the Respondent's Torvex catalytic converter that occurred on August 17, 2004, at approximately 8:43 a.m. and ending approximately 21.7 hours later. The Respondent's Torvex Incinerator Exhaust Stack (Emission Point No. 79J-904) is designed to control carbon monoxide (CO) emissions from the refinery's Hydrogen Generation Unit (HGU) and is permitted to emit a maximum of 0.40 lbs/hr of H<sub>2</sub>S, 7.40 lbs/hr of CO. According to the Respondent, this incident was

preventable and resulted in approximately 69.4 lbs of H<sub>2</sub>S and 451.4 lbs of CO above permitted levels being emitted to the atmosphere from the Torvex Incinerator Exhaust Stack (Emission Point No. 79J-904). The release of unpermitted emissions is a violation of Title V Permit No. 2560-00001-V5 and Sections 2057(A)(1) and 2057(A)(2) of the Act. According to the Respondent's report, while the HGU Train 100 was temporarily down for repair, the HGU Train 200 tripped due to a problem with the metering pump that supplies charge to the Gasifier. Flow to the Torvex was diverted resulting in visible pluming from the stack in excess of six-minutes. Each instance of discharge into the atmosphere from any new or existing fluid catalytic cracking unit catalyst regenerator gases exhibiting greater than 20% opacity, except for one six-minute average opacity reading in any one-hour period is a violation of LAC 33:III.1311.C, Title V Permit No. 2560-00001-V5, and Sections 2057(A)(1) and 2057(A)(2) of the Act.

- E. The Department received the Respondent's unauthorized discharge notification report dated November 23, 2004, regarding a preventable release of 2,362 lbs of SO<sub>2</sub> and 6.05 lbs of H<sub>2</sub>S that occurred on November 17, 2004, at approximately 11:13 a.m. and ending approximately 10.78 hours later. According to the Respondent's report, the release occurred when catalyst sulfiding activity resulted in excess emissions above the permitted emission rates for SO<sub>2</sub> and H<sub>2</sub>S due to breakthrough of H<sub>2</sub>S through the catalyst bed. This is a violation of LAC 33:III.905 which states, "When facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities, even though the ambient air quality standards in affected areas are not exceeded." Control equipment as defined by LAC 33:III.111 is "any device or contrivance, operating procedure or abatement scheme used to prevent or reduce air pollution." The emission point source involved in this incident is the TGTU-2 Incinerator Stack (Emission Point No. 76H-101). This unit is permitted to emit a maximum of 35 lbs/hr of SO<sub>2</sub> and is not permitted to emit H<sub>2</sub>S. The incident resulted in excess emissions above permitted limits of 1,705 lbs of SO<sub>2</sub> and 6.05 lbs of H<sub>2</sub>S. The release of unpermitted emissions is also a violation of Title V Permit No. 2560-00001-V5, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act.
- F. On or about October 1, 2004, and April 1, 2005, the Department received the Respondent's 2004 1<sup>st</sup> Half Title V Semiannual Report and 2004 Annual Title V Certification for the Convent Refinery. According to the Respondent's reports, on or about

July 4, 2004 from 8:50 a.m. to 8:57 a.m. the TGTU (Tail Gas Treatment Unit) Nos. 2, 3, and 4 Incinerator Stacks (Emission Point Nos. 76H-101, 77H-101, 78H-101) had a greater than 20% average opacity for longer than a six (6) minute period in any 60 consecutive minutes. Also, on or about June 8, 2004, from 1:37 a.m. to 2:20 a.m. the TGTU No. 2 had a greater than 20% average opacity for longer than a six (6) minute period in any 60 consecutive minutes. Each emission source exceeding 20% average opacity for more than one six (6) minute period in any 60 consecutive minutes is a violation of LAC 33:III.1311.C, Title V Permit No. 2560-00001-V5, and Sections 2057(A)(1) and 2057(A)(2) of the Act.

- G. On or about October 1, 2004, and April 1, 2005, the Department received the Respondent's 2004 1<sup>st</sup> Half Title V Semiannual Report and 2004 Annual Title V Certification for the Convent Refinery. The Respondent's fuel gas combustion devices are subject to NSPS 40 CFR 60.104(a) which limits the concentration of hydrogen sulfide (H<sub>2</sub>S) in the fuel gases routed to flares to 160 ppm. According to the Respondent's reports, the 160 ppm H<sub>2</sub>S fuel gas standard was exceeded on the H-Oil H<sub>2</sub>S waste gas analyzer on June 21, 2004 and June 29, 2004. Each exceedance of the 160 ppm H<sub>2</sub>S fuel gas standard is a violation of 40 CFR 60.104(a)(1) which language has been adopted as a Louisiana regulation in LAC 33:III.3003, Title V Permit No. 2560-00001-V5, and Sections 2057(A)(1) and 2057(A)(2) of the Act.

#### IV

In response to the Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. AE-CN-06-0012, Respondent made a timely request for a hearing.

#### V

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

#### VI

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of TWENTY-THREE THOUSAND ONE HUNDRED AND NO/100 DOLLARS (\$23,100.00) of which Three Thousand Four Hundred Thirty-six and 41/100 Dollars (\$3,436.41)

represents the Department's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to the Department as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

## VII

Respondent further agrees that the Department may consider the inspection report(s), the Consolidated Compliance Orders and Notices of Potential Penalties, and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

## VIII

This agreement shall be considered a final order of the secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

## IX

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act.



## X

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in St. James Parish and Ascension Parish, Louisiana. The advertisements, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted proof-of-publication affidavits to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notices.

## XI

Payment is to be made within thirty (30) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accountant Administrator, Financial Services Division, Department of Environmental Quality Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

## XII

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

## XIII

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his/her respective party, and to legally bind such party to its terms and conditions.

**MOTIVA ENTERPRISES LLC**

BY: \_\_\_\_\_

(Signature)

Douglas P. Quinn

(Print)

TITLE: General Manager

THUS DONE AND SIGNED in duplicate original before me this 18th day of  
December, 20 07, at Terrebonne, La.

Karen W. Lessard  
 NOTARY PUBLIC (ID # 82458)

Karen W. Lessard

(Print)

**LOUISIANA DEPARTMENT OF  
 ENVIRONMENTAL QUALITY**

Harold Leggett, Ph.D., Secretary

BY: \_\_\_\_\_

Peggy M. Hatch  
 Peggy M. Hatch, Assistant Secretary  
 Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 2nd day of  
April, 20 08, at Baton Rouge, Louisiana.

Ted R. Boyle, Jr.  
 NOTARY PUBLIC (ID # 40539)

(Print)

Approved: \_\_\_\_\_

Harold Leggett  
 Harold Leggett, Ph.D., Assistant Secretary